UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,701	05/02/2001	Kazuyoshi Tanaka	P/1929-81	6210

32172 7590 10/24/2005

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41 ST FL.
NEW YORK, NY 10036-2714

EXAMINER	
JARRETT, SCOTT L	

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/847,701	TANAKA, KAZUYOSHI	
	Examiner	Art Unit	
	Scott L. Jarrett	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 August 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 May 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

EA

DETAILED ACTION

1. This **Final** Office Action is responsive to Applicant's amendment filed August 4, 2005. Applicant's amendment amended the Specification, amended Claims 4-6 and 10-12 and added new claims 13-16. Currently claims 1-16 are pending.

Response to Amendment

2. Applicant's amendment filed on August 4, 2005 with respect to Claims 1-16 necessitated new ground(s) of rejection.

The objection to the Specification cited in the First Office Action, dated May 25, 2005, is withdrawn in response to Applicant's amendment to the Title.

Response to Arguments

3. Applicant's arguments with respect to Claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

It is noted that the applicant did not challenge the Official Notice(s) cited in the First Office Action therefore those statements as presented are herein after prior art. Specifically it has been established that it was old and well known in the art at the time of the invention:

- to develop one or more products (services, product variations) for one or more market segments;

- the utilization of mass customization, personalization, one-to-one marketing and other such business strategies by many companies to provide custom/personalized products to consumers, for example web sites that are personalized for each individual based on their user profile (preferences, demographics, usage behavior, past purchases, etc.) are common and so is the business practice of creating "versions" of product which cater to various consumer segments.;

- to conduct surveys via electronic mail;

- that electronic mail systems support rich-text/HTML emails;

- that various products have a plurality of product characteristics (attributes) of which evaluated as part of the product evaluation and testing process; and

- to collect and sell consumer and/or product information (demographics, shopping behavior, product preferences, etc.) for a plurality of purposes including but not limited to product development, marketing and the like.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-3 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahan et al., The Predictive Power of Internet-Based Product Concept Testing Using Visual Depiction and Animation (1998).

Regarding Claim 1 Dahan et al. teach an Internet-based system and method for conducting product concept testing of virtual product prototypes (i.e. products having varying attributes/options/configurations; Abstract; Introduction, Page 1; Figure 1) wherein the system/method can "reduce the uncertainty and cost of new product introductions by allowing more ideas to be concept tested in parallel" (Abstract) by understanding the *product characteristics* that address consumers wants and needs ("... *attribute-based conjoint analysis* explains a significant portion of the variability in product preferences...", Paragraph 3, Page 2).

Dahan et al. further teach utilizing the well-known market research method of conjoint analysis to identify product attributes (configurations, attributes, etc.) for testing utilizing the Internet-based product testing and evaluation method and system (Paragraphs 2-3, Page 2). Conjoint analysis being defined as a statistical research method involving the measurement of the collective effects of two or more independent

variables (i.e. product attributes, e.g. color, size, ease of use, cost, etc.) on the classification of a dependent variable ("overall liking," purchase intention, "best buy," or any other evaluative measurement) through providing a plurality of combination of product-attribute concepts representing various mixed and matched product attributes which are then rated (selected, voted on, etc.) by consumers (users, respondents, etc.).

More generally Dahan et al. teach that "One of the more challenging decisions faced by a new product development team is *concept selection, the narrowing of multiple product concepts to a single*, "best" design. A key input to this process is the predicted market performance of a product concept were it to be launched." (Paragraph 1, Page 1) wherein the best design is selected/determined by the user of the method based on any of a plurality of user defined criteria including at least the product attribute preferences expressed by the users (i.e. the product configuration; Paragraphs 2-3, Page 2; Paragraph 1, Page 3).

Dahan et al. teach an Internet-based product concept testing system and method comprising:

- displaying (transmitting, placing, providing, posting, etc.) sample (prototype, potential, example, etc.) data/information related to one or more product(s) characteristics (e.g. "aesthetics", "ease-of use", color, type, size, shape, etc.) on a web site (web server, server connected to a network, etc.) prior to producing/selling the product (e.g. product concept testing; Abstract; Paragraphs 2-3, Page 2; Paragraph 1, Page 3, Last Paragraph, Page 5; Figures 3-4);

- developing the product(s) having the characteristics corresponding to information (votes, selections, etc.) collected from users viewing (browsing) the sample data (conjoint analysis; "....prior to generating multiple product concepts, qualitative market research (e.g. focus groups or one-on-one customer interviews) is conducted, measurable product attributes are identified, and quantitative market research in the form of attribute-based conjoint analysis [4] is completed.", Paragraph 2, Page 2; Figure 1); and

- selling the developed products (profit maximization, market share predictions; Figure 1 ; Pages 1-2 and 4; Table 5).

Figure 1

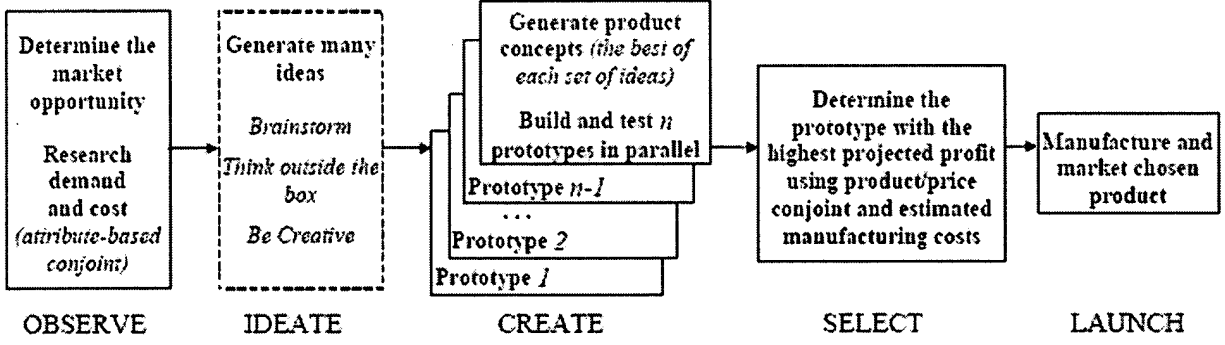


Figure 3: Web page used in Web surveys (WA and WS)

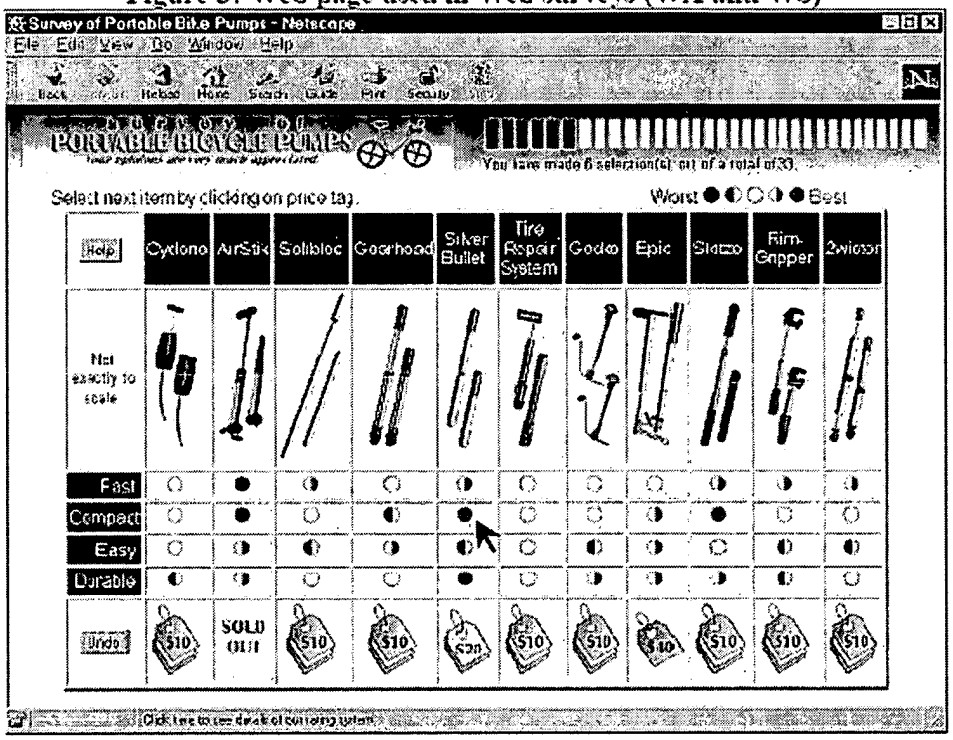
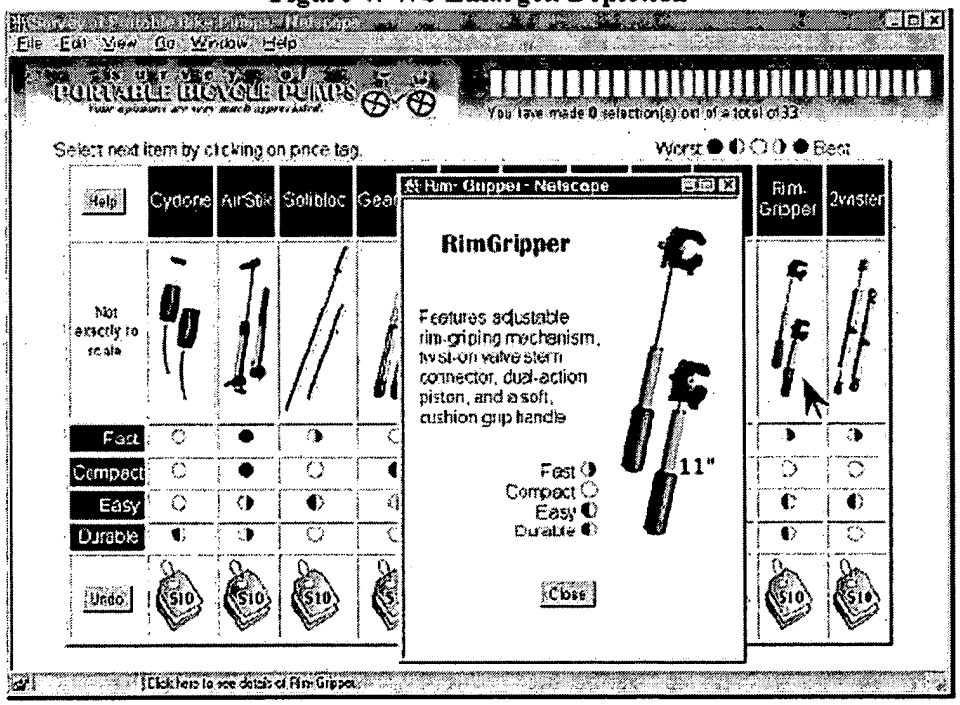


Figure 4: WS Enlarged Depiction



While Dahan et al. teach an Internet-based method and system for identifying, developing and selling products that may satisfy market demand by actively collecting/soliciting consumer (user, customer) product attribute preference information (i.e. customers identify/select the product configuration, set of product features, that best meet their needs and wants; conjoint analysis) Dahan et al. does not expressly teach *passively* identifying consumer product attribute preference information based on the number of times users access a web page (access frequencies, number of hits/page views; i.e. observed behavior) as claimed.

Official notice is taken that the use of observational techniques to determine/infer consumer (user, customer, etc.) product and/or service preferences is old and very well known in the art and are known for providing less "distortion" than more active market research techniques such as surveys/interviews.

For example market researchers commonly observe shopper's behaviors in stores (online and/or offline) noting such information as the amount of time spent in front of a display or on a particular page, what products the consumer compares prior to selecting a product and the like (i.e. click-stream analysis, web user tracking/tracing, web path analysis, etc.).

It would have been obvious to one skilled in the art at the time of the invention that the Internet-based product concept testing and evaluation method and system as taught by Dahan et al. with its ability to actively solicit and statistically analyze a plurality

of consumer (user, customer, etc.) product attribute preferences (characteristics, attributes, alternatives, etc.) such as size, aesthetics, ease of use and the like would have benefited from combining/utilizing a plurality of well-known market research techniques such as observational techniques to collect more information regarding users' product preferences for example capturing the number of times users access a particular product's web page in view of the teachings of official notice; the resultant system providing information on user product preferences based on observed user behaviors thereby providing a more complete picture/understanding of users' wants and needs (i.e. removing/counteracting some of the biases shown in more active market research efforts such as surveys).

Further it is noted that the exact product attributes (criteria, options, characteristics, etc.) tested/evaluated merely represent non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The product characteristics as claimed merely serve as labels for any of a plurality of product concept characteristics/attributes upon which products (virtual prototypes) can be evaluated and tested and a plurality of alternative labels could be utilized without affecting the system's ability to conduct product concept testing and evaluations. The recited method steps would be performed the same regardless of the specific product attributes/data utilized. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of

patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.*

Regarding Claim 2 teach Dahan et al. teach an Internet-based product testing and evaluation system and method wherein developing and selling of the product (second step) is performed by developing products having the characteristics (colors, shapes, sizes, etc.) corresponding to the received user information (survey responses, selection frequencies, conjoint analysis) for specific sets/segments of users (consumers, audiences, etc.; Last Paragraph, Page 6)

Dahan et al. further teaches collection of demographic (age, sex, residential area, etc.) information as part of the product concept testing and evaluation (customer, consumer, etc.) segment/demographic ("...simple demographic data...", Paragraph 1, Page 11).

While Dahan et al. teaches the evaluation, development and sale of products which meet customer preferences (needs, wants, achieve market success, etc.) for specific market/demographic segments and the collection of demographic data as part of the product concept/attribute testing and evaluation process Dahan et al. does not expressly teach developing product(s) for specific market segments, groups or the like as claimed.

Official notice is taken that the development of one or more products (services, product variations) for one or more market segments is old and well known in the art. Mass customization, personalization, one-to-one marketing and other such business strategies are utilized by many companies to provide custom/personalized products to consumers, for example web sites that are personalized for each individual based on their user profile (preferences, demographics, usage behavior, past purchases, etc.) are common and so is the business practice of creating "versions" of product which cater to various consumer segments one example being a Spanish-language version of a popular book or magazine to appeal to the Spanish speaking consumer segment.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. with its ability to test and evaluate product concepts/prototypes for specific markets would have benefited from developing one or more market/demographic specific products in view of the teachings of official notice; the resultant system enabling users to create/develop products that match the specific/unique user preferences for each identified market/demographic segment thereby improving the product's likelihood of success.

Regarding Claim 3 Dahan et al. teach an Internet-based product concept evaluation and testing system and method wherein a plurality of product concept

characteristics are evaluated by users in making their product concept preferences "known" (Abstract; Paragraph 3, Page 3; Paragraph 1, Page 13).

Dahan et al. further teach that the system and method for product concept evaluation and testing is applicable to any of a plurality of product types ("It is natural to extend these efforts to products outside of the traditional Internet domain.", Paragraph 3, Page 3) making the system capable of testing any of a plurality of new or improved products each with its own set of relevant features, performance metrics, and the like to be tested and evaluated ("The future of the virtual approach to product concept testing is quite promising. Firms can quickly generate multiple virtual prototypes and gather consumer preference data rapidly, and at very low cost. This should encourage a greater degree of parallel prototyping and creativity while enhancing the expected profitability of new product launches.", Paragraph 3, Page 20).

Dahan et al. does not expressly teach that the sample data process speed, hardness, softness and quality assurance period as claimed.

Official notice is taken that it is old and very well known in the art that various products have a plurality of product characteristics (attributes) that a user would want to evaluate/test as part of their market research efforts.

For example, personal computer systems (products) are commonly evaluated based on a plurality of performance metrics such as RAM, ROM, hard drive space, processor speed, monitor size, portability, bundled software packages, warranties

(quality assurance period), and the like while food products maybe evaluated on a taste, freshness or a host of other relevant metrics.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. was utilized to test and evaluate any of a plurality of products and that each of the products or product categories tested and evaluated would implicitly have a plurality of specific characteristics that would be included in the system and form the basis for the product evaluation and testing (e.g. computer product concept having processor speed, warranty, etc) thereby enabling the system and companies to "...quickly generate multiple virtual prototypes and gather consumer preference data rapidly, and at very low cost. This should encourage a greater degree of parallel prototyping and creativity while enhancing the expected profitability of new product launches." (Paragraph 3, Page 20)..

Further it is noted that the specific product attributes (criteria, options, characteristics, etc.) tested/evaluated merely represent non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The product characteristics as claimed merely serve as labels for any of a plurality of product concept characteristics/attributes upon which products (virtual prototypes) can be evaluated and tested and a plurality of alternative labels could be utilized without affecting the system's ability to conduct product concept testing and evaluations. The recited method steps would be performed the same regardless of the specific product attributes/data utilized. Further, the structural

elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.*

Regarding Claim 7 Dahan et al. teach an Internet-based product concept testing and evaluation method and system comprising:

- displaying (transmitting, placing, providing, posting, etc.) sample (prototype, potential, example, etc.) data/information related to one or more product(s) characteristics (e.g. "aesthetics", "ease-of use", color, type, size, shape, etc.) on a web site (web server, server connected to a network, etc.) prior to producing/selling the product (e.g. product concept testing; Abstract; Paragraphs 2-3, Page 2; Paragraph 1, Page 3, Last Paragraph, Page 5; Figures 3-4);

- developing the product(s) having the characteristics corresponding to information (votes, selections, etc.) collected from users viewing (browsing) the sample data (conjoint analysis; "....prior to generating multiple product concepts, qualitative market research (e.g. focus groups or one-on-one customer interviews) is conducted, measurable product attributes are identified, and quantitative market research in the form of attribute-based conjoint analysis [4] is completed.", Paragraph 2, Page 2; Figure 1); and

- selling the developed products (profit maximization, market share predictions; Figure 1 ; Pages 1-2 and 4; Table 5).

While Dahan et al. teach an Internet-based method and system for identifying, developing and selling products that may satisfy market demand by actively collecting/soliciting consumer (user, customer) product attribute preference information (i.e. customers identify/select the product configuration, set of product features, that best meet their needs and wants; conjoint analysis) Dahan et al. does not expressly teach *passively* identifying consumer product attribute preference information based on the number of times users access a web page (access frequencies, number of hits/page views; i.e. observed behavior) as claimed.

Official notice is taken that the use of observational techniques to determine/infer consumer (user, customer, etc.) product and/or service preferences is old and very well known in the art and are known for providing less "distortion" than more active market research techniques such as surveys/interviews.

For example market researchers commonly observe shopper's behaviors in stores (online and/or offline) noting such information as the amount of time spent in front of a display or on a particular page, what products the consumer compares prior to selecting a product and the like (i.e. click-stream analysis, web user tracking/tracing, web path analysis, etc.).

It would have been obvious to one skilled in the art at the time of the invention that the Internet-based product concept testing and evaluation method and system as

taught by Dahan et al. with its ability to actively solicit and statistically analyze a plurality of consumer (user, customer, etc.) product attribute preferences (characteristics, attributes, alternatives, etc.) such as size, aesthetics, ease of use and the like would have benefited from combining/utilizing a plurality of well-known market research techniques such as observational techniques to collect more information regarding users's product preferences in view of the teachings of official notice; the resultant system providing information on user product preferences based on observed user behaviors thereby providing a more complete picture/understanding of users wants and needs (i.e. removing/counteracting some of the biases shown in more active market research efforts such as surveys).

Dahan et al. does not expressly teach creating a database containing information collected from users (access frequencies, number of hits/page views, votes, selections, etc.) viewing (browsing) the sample data (product characteristics, attributes, colors, shapes, sizes, etc.) or selling the created database of product information (e.g. market research, opinion poll, focus group, etc.) as claimed.

Official notice is taken that user data such as demographics, shopping behavior, product preferences, credit history and a plurality of other user (consumer) information is collected in databases which are offered for sale to a plurality of companies which use the product/consumer information for a plurality of purposes including such activities as product development, marketing, advertising and the like.

For example in the field of direct mail marketing databases are utilized in what is commonly referred to as database marketing to target specific products (offers, promotions) to specific user (consumers, market segments) or user groups based on the user information contained in the database, the targeted products being of more interest to users and more successful for sellers.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. would have benefited from selling the consumer product attribute preference information collected by the product concept testing and evaluation system in the form of a database in view of the teachings of official notice; the resultant system being capable of generating revenues via the sale of the valuable consumer product attribute preference database to the one or more companies whose products where evaluated.

Further it is noted that the exact product attributes (criteria, options, characteristics, etc.) tested/evaluated merely represent non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The product characteristics as claimed merely serve as labels for any of a plurality of product concept characteristics/attributes upon which products (virtual prototypes) can be evaluated and tested and a plurality of alternative labels could be utilized without affecting the system's ability to conduct product concept testing and evaluations. The recited method steps would be performed the same

regardless of the specific product attributes/data utilized. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.*

Regarding Claim 8 teach Dahan et al. teach an Internet-based product testing and evaluation system and method wherein developing and selling of the product (second step) is performed by developing products having the characteristics (aesthetics, colors, shapes, sizes, etc.) corresponding to the received user information (survey responses, selection frequencies, conjoint analysis) for specific sets/segments of users (consumers, audiences, etc.; Last Paragraph, Page 6).

Dahan et al. further teaches collection of demographic (age, sex, residential area, etc.) information as part of the product concept testing and evaluation (customer, consumer, etc.) segment/demographic ("...simple demographic data...", Paragraph 1, Page 11).

While Dahan et al. teaches the evaluation, development and sale of products which meet customer preferences (needs, wants, achieve market success, etc.) for specific market/demographic segments and the collection of demographic data as part of the product concept/attribute testing and evaluation process Dahan et al. does not expressly teach developing product(s) for specific market segments/groups or creating

a database containing information collected from users regarding a plurality of product attribute options as claimed.

Official notice is taken that the development of one or more products (services, product variations) for one or more market segments is old and well known in the art. Mass customization, personalization, one-to-one marketing and other such business strategies are utilized by many companies to provide custom/personalized products to consumers (e.g. creating "versions" of product which cater to various consumer segments one example being a Spanish-language version of a popular book or magazine to appeal to the Spanish speaking consumer segment).

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. with its ability to test and evaluate product concepts/prototypes for specific markets would have benefited from developing one or more market/demographic specific products in view of the teachings of official notice; the resultant system enabling users to create/develop products that match the specific/unique user preferences for each identified market/demographic segment thereby increasing the products chances for success.

Official notice is taken that product concept testing and evaluation is most commonly used to select/identify the most desirable product concept from a plurality of

alternative product configurations/varieties wherein each concept represents a different selected set of product attributes/characteristics (i.e. selected from a plurality of potential product attributes).

For example conjoint analysis is used to determine which attributes and their associated values (e.g. if color is an important consumer attribute then what color did consumers express the most interest/preference for) are consumer preferences.

It would have been obvious to one skilled in the art at the time of the invention that the product concept testing and evaluation system and method with its utilization of conjoint analysis to determine/measure consumer product attribute preferences amongst a plurality of product concepts as taught by Dahan et al. would have utilized a plurality of well-known conjoint analysis or other market research techniques in order to test and evaluate multiple options (variables, configurations, etc.) for each product attribute/characteristic in view of the teachings of official notice; the resultant system enabling businesses to determine which product attributes and which product attribute values meet consumers' wants and needs.

Regarding Claim 9 Dahan et al. teach an Internet-based product concept evaluation and testing system and method wherein a plurality of product concept characteristics are evaluated by users in making their product concept preferences "known" (Abstract; Paragraph 3, Page 3; Paragraph 1, Page 13).

Dahan et al. further teach that the system and method for product concept evaluation and testing is applicable to any of a plurality of product types ("It is natural to extend these efforts to products outside of the traditional Internet domain.", Paragraph 3, Page 3) making the system capable of testing any of a plurality of new or improved products each with its own set of relevant features, performance metrics, and the like to be tested and evaluated ("The future of the virtual approach to product concept testing is quite promising. Firms can quickly generate multiple virtual prototypes and gather consumer preference data rapidly, and at very low cost. This should encourage a greater degree of parallel prototyping and creativity while enhancing the expected profitability of new product launches.", Paragraph 3, Page 20).

Dahan et al. does not expressly teach that the sample data process speed, hardness, softness and quality assurance period as claimed.

Official notice is taken that it is old and very well known in the art that various products have a plurality of product characteristics (attributes) that one would test and evaluate as part of a marketing research effort.

For example, personal computer systems (products) are commonly evaluated based on a plurality of performance metrics such as RAM, ROM, hard drive space, processor speed, monitor size, portability, bundled software packages, warranties (quality assurance period) and the like.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. was utilized to test and evaluate any of a plurality of products and that each of the products or product categories tested and evaluated would implicitly have a plurality of specific characteristics that would be included in the system and form the basis for the product evaluation and testing (e.g. computer product concept having processor speed, warranty, etc) thereby enabling the system and companies to "...quickly generate multiple virtual prototypes and gather consumer preference data rapidly, and at very low cost. This should encourage a greater degree of parallel prototyping and creativity while enhancing the expected profitability of new product launches." (Paragraph 3, Page 20)..

Further it is noted that the specific product attributes (criteria, options, characteristics, etc.) tested/evaluated merely represent non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The product characteristics as claimed merely serve as labels for any of a plurality of product concept characteristics/attributes upon which products (virtual prototypes) can be evaluated and tested and a plurality of alternative labels could be utilized without affecting the system's ability to conduct product concept testing and evaluations. The recited method steps would be performed the same regardless of the specific product attributes/data utilized. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of

patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.*

6. Claims 4-6 and 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahan et al., The Predictive Power of Internet-Based Product Concept Testing Using Visual Depiction and Animation (1998) as applied to Claims 1-3 and 7-9 above and further in view of Orme, Bryan et al., Conducting Full-Profile Conjoint Analysis over the Internet.

Regarding Claim 4 Dahan et al. teach an Internet-based product concept testing system and method comprising:

- displaying (transmitting, placing, providing, posting, etc.) sample (prototype, potential, example, etc.) data/information related to one or more product(s) characteristics (e.g. "aesthetics", "ease-of use", color, type, size, shape, etc.) on a web site (web server, server connected to a network, etc.) prior to producing/selling the product (e.g. product concept testing; Abstract; Paragraphs 2-3, Page 2; Paragraph 1, Page 3, Last Paragraph, Page 5; Figures 3-4);

- developing the product(s) having the characteristics corresponding to information (votes, selections, etc.) collected from users viewing (browsing) the sample data (conjoint analysis; "....prior to generating multiple product concepts, qualitative market research (e.g. focus groups or one-on-one customer interviews) is conducted, measurable product attributes are identified, and quantitative market research in the form of attribute-based conjoint analysis [4] is completed.", Paragraph 2, Page 2; Figure 1); and

- selling the developed products (profit maximization, market share predictions; Figure 1 ; Pages 1-2 and 4; Table 5).

Dahan et al. does not expressly teach conducting electronic mail based surveys or that the sample data comprises a plurality of options for each product characteristic as claimed.

Official notice is taken that product concept testing and evaluation is most commonly used to select/identify the most desirable product concept from a plurality of alternative product configurations/varieties wherein each concept represents a different selected set of product attributes/characteristics (i.e. selected from a plurality of potential product attributes).

For example conjoint analysis is used to determine which attributes and their associated values (e.g. if color is an important consumer attribute then what color did consumers express the most interest/preference for) are consumer preferences.

It would have been obvious to one skilled in the art at the time of the invention that the product concept testing and evaluation system and method with its utilization of conjoint analysis to determine/measure consumer product attribute preferences amongst a plurality of product concepts as taught by Dahan et al. would have utilized a plurality of well-known conjoint analysis or other marketing research techniques in order to test and evaluate multiple options (variables, configurations, etc.) for each product

attribute/characteristic in view of the teachings of official notice; the resultant system enabling businesses to determine which product attributes and which product attribute values meet consumer's wants and needs.

Orme et al. teach conducting email based product preference market research surveys as well as developing and selling product(s) having the characteristics corresponding to information collected from users (consumers, customers, etc.) responding (replying) to the email (selection frequency, vote, response, etc.), in an analogous art of product concept testing, for the purposes of determining consumer product/service preferences ("E-mail Surveys", Page 2).

Orme et al. further teach system and method for conducting market research including but not limited to product concept testing and evaluation utilizing a plurality of research "channels" including but not limited to disk by mail, electronic mail, computer aided interviews and Internet surveys (Pages 2-4). Orme et al. teach the old and well-known use of conjoint analysis including for product preference/attribute evaluations (Pages 5-7).

It would have been obvious to one skilled in the art at the time of the invention that the product concept testing and evaluation system and method as taught by Dahan et al. would have benefited from utilizing electronic mail surveys to collect and analyze customer product attribute preferences information in view of the teachings of Orme et

al.; the resultant system providing a simple/easy mechanism for conducting online market research (Orme et al.: "E-mail Surveys", Page 2).

Regarding Claim 5 Dahan et al. teach an Internet-based product testing and evaluation system and method wherein developing and selling of the product (second step) is performed by developing products having the characteristics (colors, shapes, sizes, etc.) corresponding to the received user information (survey responses, selection frequencies, conjoint analysis) for specific sets/segments of users (consumers, audiences, etc.; Last Paragraph, Page 6)

Dahan et al. further teaches collection of demographic (age, sex, residential area, etc.) information as part of the product concept testing and evaluation (customer, consumer, etc.) segment/demographic ("...simple demographic data...", Paragraph 1, Page 11).

While Dahan et al. teaches the evaluation, development and sale of products which meet customer preferences (needs, wants, achieve market success, etc.) for specific market/demographic segments and the collection of demographic data as part of the product concept/attribute testing and evaluation process Dahan et al. does not expressly teach developing product(s) for specific market segments/groups as claimed.

Official notice is taken that the development of one or more products (services, product variations) for one or more market segments is old and well known in the art.

Mass customization, personalization, one-to-one marketing and other such business strategies are utilized by many companies to provide custom/personalized products to consumers, for example web sites that are personalized for each individual based on their user profile (preferences, demographics, usage behavior, past purchases, etc.) are common and so is the business practice of creating "versions" of product which cater to various consumer segments one example being a Spanish-language version of a popular book or magazine to appeal to the Spanish speaking consumer segment.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. with its ability to testing and evaluate product concepts/prototypes for specific markets would have benefited from developing one or more market/demographic specific products in view of the teachings of official notice; the resultant system enabling users to create/develop products that match the specific/unique user preferences for each identified market/demographic segment thereby increasing the products chances for success.

Regarding Claim 6 Dahan et al. teach an Internet-based product concept evaluation and testing system and method wherein a plurality of product concept characteristics are evaluated by users in making their product concept preferences "known" (Abstract; Paragraph 3, Page 3; Paragraph 1, Page 13).

Dahan et al. further teach that the system and method for product concept evaluation and testing is applicable to any of a plurality of product types ("It is natural to extend these efforts to products outside of the traditional Internet domain.", Paragraph 3, Page 3) making the system capable of testing any of a plurality of new or improved products each with its own set of relevant features, performance metrics, and the like to be tested and evaluated ("The future of the virtual approach to product concept testing is quite promising. Firms can quickly generate multiple virtual prototypes and gather consumer preference data rapidly, and at very low cost. This should encourage a greater degree of parallel prototyping and creativity while enhancing the expected profitability of new product launches.", Paragraph 3, Page 20).

Dahan et al. does not expressly teach that the sample data comprises: process speed, hardness, softness and quality assurance period as claimed.

Official notice is taken that it is old and very well known in the art that various products have a plurality of product characteristics (attributes) that a user would want to evaluate/test as part of their market research efforts.

For example, personal computer systems (products) are commonly evaluated based on a plurality of performance metrics such as RAM, ROM, hard drive space, processor speed, monitor size, portability, bundled software packages, warranties (quality assurance period), and the like while food products maybe evaluated on a taste, freshness or a host of other relevant metrics.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. was utilized to test and evaluate any of a plurality of products and that each of the products or product categories tested and evaluated would implicitly have a plurality of specific characteristics that would be included in the system and form the basis for the product evaluation and testing (e.g. computer product concept having processor speed, warranty, etc) thereby enabling the system and companies to "...quickly generate multiple virtual prototypes and gather consumer preference data rapidly, and at very low cost. This should encourage a greater degree of parallel prototyping and creativity while enhancing the expected profitability of new product launches." (Paragraph 3, Page 20)..

Further it is noted that the specific product attributes (criteria, options, characteristics, etc.) tested/evaluated merely represent non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The product characteristics as claimed merely serve as labels for any of a plurality of product concept characteristics/attributes upon which products (virtual prototypes) can be evaluated and tested and a plurality of alternative labels could be utilized without affecting the system's ability to conduct product concept testing and evaluations. The recited method steps would be performed the same regardless of the specific product attributes/data utilized. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive

material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.*

Regarding Claim 10 Dahan et al. teach an Internet-based product concept testing system and method comprising:

- identifying at least one product characteristic (attribute, configuration, parameter, size, color, shape, etc.; Paragraphs 2-3, Page 2; Paragraph 1, Page 3, Last Paragraph, Page 5; Figures 3-4);

- displaying (transmitting, placing, providing, posting, etc.) sample (prototype, potential, example, etc.) data/information related to one or more product(s) characteristics (e.g. "aesthetics", "ease-of use", color, type, size, shape, etc.) on a web site (web server, server connected to a network, etc.) prior to producing/selling the product (e.g. product concept testing; Abstract; Paragraphs 2-3, Page 2; Paragraph 1, Page 3, Last Paragraph, Page 5; Figures 3-4);

- developing the product(s) having the characteristics corresponding to information (votes, selections, etc.) collected from users viewing (browsing) the sample data (conjoint analysis; "....prior to generating multiple product concepts, qualitative market research (e.g. focus groups or one-on-one customer interviews) is conducted, measurable product attributes are identified, and quantitative market research in the form of attribute-based conjoint analysis [4] is completed.", Paragraph 2, Page 2; Figure 1); and

- selling the developed products (profit maximization, market share predictions; Figure 1 ; Pages 1-2 and 4; Table 5).

Dahan et al. does not expressly teach sending (transmitting, providing, etc.) the plurality of product characteristic choices (alternatives, options, levels, etc.) in an email to users (i.e. email surverys) prior to selling/developing the product or providing a plurality of choices for each identified product characteristic as claimed.

Official notice is taken that product concept testing and evaluation is most commonly used to select/identify the most desirable product concept from a plurality of alternative product configurations/varieties wherein each concept represents a different selected set of product attributes/characteristics (i.e. selected from a plurality of potential product attributes).

For example conjoint analysis is used to determine which attributes and their associated values (e.g. if color is an important consumer attribute then what color did consumers express the most interest/preference for) are consumer preferences.

It would have been obvious to one skilled in the art at the time of the invention that the product concept testing and evaluation system and method with its utilization of conjoint analysis to determine/measure consumer product attribute preferences amongst a plurality of product concepts as taught by Dahan et al. would have utilized a plurality of well-known conjoint analysis or other market research techniques in order to

test and evaluate multiple options (variables, configurations, etc.) for each product attribute/characteristic in view of the teachings of official notice; the resultant system enabling businesses to determine which product attributes and which product attribute values meet consumer's wants and needs.

Orme et al. teach conducting email based product preference market research surveys as well as developing and selling product(s) having the characteristics corresponding to information collected from users (consumers, customers, etc.) responding (replying) to the email (selection frequency, vote, response, etc.), in an analogous art of product concept testing, for the purposes of determining consumer product/service preferences ("E-mail Surveys", Page 2).

Orme et al. further teach system and method for conducting market research including but not limited to product concept testing and evaluation utilizing a plurality of research "channels" including but not limited to disk by mail, electronic mail, computer aided interviews and Internet surveys (Pages 2-4). Orme et al. teach the old and well-known use of conjoint analysis including for product preference/attribute evaluations (Pages 5-7).

It would have been obvious to one skilled in the art at the time of the invention that the product concept testing and evaluation system and method as taught by Dahan et al. would have benefited from utilizing electronic mail surveys to collect and analyze customer product attribute preferences in view of the teachings of Orme et al.; the

resultant system providing a simple/easy mechanism for conducting online market research (Orme et al.: "E-mail Surveys", Page 2).

Dahan et al. does not expressly teach creating a database containing information collected from users (access frequencies, number of hits/page views, votes, selections, etc.) viewing (browsing) the sample data (product characteristics, attributes, colors, shapes, sizes, etc.) or selling the created database of product information (e.g. market research, opinion poll, focus group, etc.) as claimed.

Official notice is taken that user data such as demographics, shopping behavior, product preferences, credit history and a plurality of other user (consumer) information is collected in databases which are offered for sale to a plurality of companies which use the product/consumer information for a plurality of purposes including such activities as product development, marketing, advertising and the like.

For example in the field of direct mail marketing databases are utilized in what is commonly referred to as database marketing to target specific products (offers, promotions) to specific user (consumers, market segments) or user groups based on the user information contained in the database, the targeted products being of more interest to users and more successful for sellers.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al.

would have benefited from selling the consumer product attribute preference information collected by the product concept testing and evaluation system in the form of a database in view of the teachings of official notice; the resultant system being capable of generate revenues by selling the valuable consumer product attribute preference to the one or more companies whose products where evaluated.

Regarding Claim 11 teach Dahan et al. teach an Internet-based product testing and evaluation system and method wherein developing and selling of the product (second step) is performed by developing products having the characteristics (colors, shapes, sizes, etc.) corresponding to the received user information (survey responses, selection frequencies, conjoint analysis) for specific sets/segments of users (consumers, audiences, etc.; Last Paragraph, Page 6)

Dahan et al. further teaches collection of demographic (age, sex, residential area, etc.) information as part of the product concept testing and evaluation (customer, consumer, etc.) segment/demographic ("...simple demographic data...", Paragraph 1, Page 11).

While Dahan et al. teaches the evaluation, development and sale of products which meet customer preferences (needs, wants, achieve market success, etc.) for specific market/demographic segments and the collection of demographic data as part of the product concept/attribute testing and evaluation process Dahan et al. does not expressly teach developing product(s) for specific market segments, groups or the like

or creating a database containing information collected from users regarding a plurality of product attribute options as claimed.

Official notice is taken that the development of one or more products (services, product variations) for one or more market segments is old and well known in the art. Mass customization, personalization, one-to-one marketing and other such business strategies are utilized by many companies to provide custom/personalized products to consumers as discussed above.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. with its ability to test and evaluate product concepts/prototypes for specific markets would have benefited from developing one or more market/demographic specific products in view of the teachings of official notice; the resultant system enabling users to create/develop products that match the specific/unique user preferences for each identified market/demographic segment thereby increasing the products chances for success.

Official notice is taken that product concept testing and evaluation is most commonly used to select/identify the most desirable product concept from a plurality of alternative product configurations/varieties wherein each concept represents a different

selected set of product attributes/characteristics (i.e. selected from a plurality of potential product attributes).

For example conjoint analysis is used to determine which attributes and their associated values (e.g. if color is an important consumer attribute then what color did consumers express the most interest/preference for) are consumer preferences.

It would have been obvious to one skilled in the art at the time of the invention that the product concept testing and evaluation system and method with its utilization of conjoint analysis to determine/measure consumer product attribute preferences amongst a plurality of product concepts as taught by Dahan et al. would have utilized a plurality of well-known conjoint analysis or other market research techniques in order to test and evaluate multiple options (variables, configurations, etc.) for each product attribute/characteristic in view of the teachings of official notice; the resultant system enabling businesses to determine which product attributes and which product attribute values meet consumer's wants and needs.

Regarding Claim 12 Dahan et al. teach an Internet-based product concept evaluation and testing system and method wherein a plurality of product concept characteristics are evaluated by users in making their product concept preferences "known" (Abstract; Paragraph 3, Page 3; Paragraph 1, Page 13).

Dahan et al. further teach that the system and method for product concept evaluation and testing is applicable to any of a plurality of product types ("It is natural to extend these efforts to products outside of the traditional Internet domain.", Paragraph

3, Page 3) making the system capable of testing any of a plurality of new or improved products each with its own set of relevant features, performance metrics, and the like to be tested and evaluated (Paragraph 3, Page 20).

Dahan et al. does not expressly teach that the sample data comprises: process speed, hardness, softness and quality assurance period as claimed.

Official notice is taken that it is old and very well known in the art that various products have a plurality of product characteristics (attributes) that a user would want to evaluate/test as part of their market research efforts.

For example, personal computer systems (products) are commonly evaluated based on a plurality of performance metrics such as RAM, ROM, hard drive space, processor speed, monitor size, portability, bundled software packages, warranties (quality assurance period) and the like.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. was utilized to test and evaluate any of a plurality of products and that each of the products or product categories tested and evaluated would implicitly have a plurality of specific characteristics that would be included in the system and form the basis for the product evaluation and testing (e.g. computer product concept having processor speed, warranty, etc) thereby enabling the system and companies to "...quickly generate

multiple virtual prototypes and gather consumer preference data rapidly, and at very low cost. This should encourage a greater degree of parallel prototyping and creativity while enhancing the expected profitability of new product launches." (Dahan et al.: Paragraph 3, Page 20).

Further it is noted that the specific product attributes (criteria, options, characteristics, etc.) tested/evaluated merely represent non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The product characteristics as claimed merely serve as labels for any of a plurality of product concept characteristics/attributes upon which products (virtual prototypes) can be evaluated and tested and a plurality of alternative labels could be utilized without affecting the system's ability to conduct product concept testing and evaluations. The recited method steps would be performed the same regardless of the specific product attributes/data utilized. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.*

Regarding Claims 13 and 15 teach Dahan et al. teach an Internet-based product concept testing and evaluation system and method wherein the sample data is related

to one or more product(s) characteristics including but not limited to "aesthetics", "ease-of use", color, size, and the like as discussed above.

Further it is noted that the exact product attributes (criteria, options, characteristics, etc.) tested/evaluated merely represent non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The product characteristics as claimed merely serve as labels for any of a plurality of product concept characteristics/attributes upon which products (virtual prototypes) can be evaluated and tested and a plurality of alternative labels could be utilized without affecting the system's ability to conduct product concept testing and evaluations. The recited method steps would be performed the same regardless of the specific product attributes/data utilized. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.*

Regarding Claims 14 and 16 Dahan et al. teach a product concept testing and evaluation method and system wherein the sample data is shown in pictures (graphics, visually, images, etc.; Figures 3-4).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Becker et al., U.S. Patent No. 5,732,200, teach a system and method for collecting and evaluating consumer (customer, user, etc.) preferred product attributes/design characteristics utilizing collaboratively sessions, via a network, starting with electronic brainstorming, idea organization, voting, alternative evaluation and the like wherein products/services are designed/developed to "reflect customer's wants and needs."

- West et al., U.S. Patent No. 6,175,833, teach an online method and system for collecting and analyzing user preference information wherein users can vote in online surveys.

- Lytle et al., U.S. Patent No. 6,549,950, teach a method and system for conducting voting/surveys via electronic mail.

- Harshaw, Bob, U.S. Patent No. 6,859,782, teaches a method and system for selecting and developing products for sale in a marketplace wherein a plurality of product concepts are stored in a database and evaluated over a plurality of characteristics including but not limited to marketability and further wherein the product information maybe collected utilizing market surveys and conjoint analysis. Harshaw further teaches the utilization of well-known conjoint analysis techniques to evaluate consumer product characteristics/attributes preferences.

- Palm, Stephen, U.S. Patent No. 6,952,442, teaches a method and system for passively collecting a plurality of observed online user behavior (e.g. web traffic patterns) in order to analyze such things as the value of a customer or the effectiveness of an advertising campaign. Palm further teaches that businesses create predetermined user activity profiles in order to identify/track specific user activities such as a user visiting a specific page or group of pages.

- Johnson, Richard, Trade-off Analysis of Consumer Values, teaches the utilization of the old and very well known trade-off analysis market research technique to determine consumer product/service preferences (wants, needs, etc.) and the impact those preferences will have on the product ultimate market success. Johnson further

teaches that trade-off analysis involves users comparing multiple varied product configurations and expressing their preferences for each of the displayed product concepts.

- Jacobson, Paul, Focus on the Customer, teaches the utilization of online focus groups in order to determine consumer product preferences. Jacobson further teaches the utilization of online product surveys as part of a businesses qualitative and quantitative market research methodologies.

- Shocker, Alan et al., Multiattribute approaches for product concepts evaluation and generation, teach the old and very well known use of product concept testing/evaluation as part of a company's marketing efforts including the utilization of conjoint analysis, trade-off analysis, choice models and other techniques to ascertain the importance of various product attributes to specific segments/markets of consumers (users).

- Adaptive Conjoint Analysis Version 4, teaches a computer-administered interview method and system utilized by market researchers to determine/simulate customer (respondent) product preferences/attributes including such things as price, product formulation/configuration and the like. The article further teaches the utilization of surveys/questionnaires as well as choice based conjoint analysis to determine consumer product attribute preferences (utility) including color, price and shape (body type).

- Huber, Joel, What We Have Learned from 20 Years of Conjoint Research, teaches the well known use of conjoint analysis (graded pair, full profile, choices, self-

explicated) for determining consumer product/service preferences wherein one such conjoint analysis "works by simulating the attribute selections process that occurs in actual choices."

- Green, Paul et al., Evaluating New Products, teach the old and well known utilization of conjoint analysis (trade-off tables, full profile, compositional, hybrid, adaptive) to select products/services that meet consumer (user, customer, etc.) needs and wants (preferences) wherein the preferences/attributes each comprise several options/alternatives. Green further teaches the utilization of pictures (pictorial concepts) of product concepts enhances the realism of the product evaluation.

- Q.P.R. Introduces Revolutionary Market Research Software for Conducting On-line surveys, teaches the commercial availability of an Internet-based system and method for conducting product concept testing and evaluation (market research) known as MarketMaker, wherein "MarketMaker helps companies test concepts in product development, set prices, target specific market segments and benchmark products against the competition." The article further teaches that the MarketMaker system provides online surveys ("WebCards") that collect consumer (user, customer) product attribute preferences.

- Innovative WebCards Save Time and Money by Conducting Primary Market Research on the Internet, teaches the commercial availability and public use of an online product evaluation system and method that captures and analyzes customer product/service preferences utilizing well known conjoint analysis techniques.

- McCullough, Dick, Trade-off Analysis, teaches a the utilization of a plurality of well known market research techniques for determining consumer product/service preferences enabling market researchers to model such things as "how likely people will be to purchase various configurations of products."

- Hall, Amy et al., Integrating Multiple Qualitative Research Methods, teach combining a plurality of well-known market research techniques (methods, approaches) comprising interviews (surveys, focus groups, etc.), observations and document analysis (interviews) in order to develop a more comprehensive understanding of consumer (user, customer) product/service preferences. Hall specifically teaches that observation based market research provides customer insights that have "less distortion."

- Orme, Bryan, Which Conjoint Method Should I use?, teaches a plurality of well known conjoint analysis methods for determining consumer product/service preferences.

- McQuarrie, Edward, The Market Research Toolbox, teaches a plurality of old and well known market research techniques including but not limited to surveys and choice modeling as well as the application of those techniques to the introduction of new products/services.

- DSS Research.com Web Pages teaches a method and system for determining consumer product/service preferences utilizing a plurality of well known market research techniques including but not limited to focus groups, surveys (email, internet, paper, etc.) and conjoint analysis. The article further teaches that the system (Dominator

2000) is for the "analysis and prediction of buyer's responses to changes in products or services offered in the marketplace" and that the system can be used to design products for specific market segments.

- QPR-Tools.com Web Pages teaches a method and system for product concept testing and evaluation wherein the system determines consumer product attribute preferences and further wherein the preferences comprise one or more options/alternative values.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SJ
10/18/2005

TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600